

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOANNA PALACIOS,

Plaintiff,

v.

BIMBO BAKERIES USA, INC., *et al.*,

Defendants.

Case No. 1:24-cv-01383-JLT-CDB

ORDER TO SHOW CAUSE WHY  
SANCTIONS SHOULD NOT BE IMPOSED  
FOR PLAINTIFF'S FAILURE TO  
PROSECUTE THIS ACTION AND TO  
COMPLY WITH THE COURT'S ORDERS

ORDER CONTINUING THE  
MANDATORY SCHEDULING  
CONFERENCE

ORDER DIRECTING PLAINTIFF TO  
EFFECT SERVICE OF THIS ORDER AND  
TO FILE PROOF OF SERVICE

**FIVE-DAY DEADLINE**

Plaintiff Joanna Palacios ("Plaintiff") initiated this action with the filing of a complaint on November 12, 2024. (Doc. 1). The same day, the Clerk of the Court issued summonses and the Court entered an order setting a mandatory scheduling conference for February 10, 2025. (Docs. 2-3). The Court's order directed Plaintiff to "diligently pursue service of summons and complaint" and "promptly file proofs of service." (Doc. 3 at 1). The order further advised Plaintiff that failure to diligently prosecute this action "may result in the imposition of sanctions, including the dismissal of unserved defendants." *Id.* To date, Plaintiff has not filed proofs of

1 service, and no Defendant has appeared in the action.

2 Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these  
3 Rules or with any order of the Court may be grounds for imposition by the Court of any and all  
4 sanctions...within the inherent power of the Court.” The Court has the inherent power to control  
5 its docket and may, in the exercise of that power, impose sanctions where appropriate, including  
6 dismissal of the action. *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000).

7 In addition, Rule 4(m) of the Federal Rules of Civil Procedure provides: “If a defendant  
8 is not served within 90 days after the complaint is filed, the court - on motion or on its own after  
9 notice to the plaintiff - must dismiss the action without prejudice against that defendant or order  
10 that service be made within a specified time.” Fed. R. Civ. P. 4(m). Absent a showing of good  
11 cause, failure to comply with Rule 4(m) requires dismissal of any unserved defendant.

12 **Conclusion and Order**

13 Based on the foregoing, IT IS HEREBY ORDERED that within five (5) days of entry of  
14 this order, Plaintiff SHALL show cause in writing why sanctions should not be imposed –  
15 including dismissal of unserved Defendants or this action in its entirety – for Plaintiff’s failure to  
16 prosecute and to serve the summonses and complaint in a timely manner. Filing summonses  
17 returned executed following entry of this order WILL NOT relieve Plaintiff of her obligation to  
18 respond to this order in writing.<sup>1</sup>

19 IT IS FURTHER ORDERED that the scheduling conference previously set for February  
20 10, 2025, is CONTINUED to March 11, 2025, at 9:00 a.m.

21 And IT IS FURTHER ORDERED that Plaintiff shall serve a copy of this order on  
22 Defendants within five (5) days of entry of this order and promptly file proof of service thereof.

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25 <sup>1</sup> The Court acknowledges counsel for Plaintiff’s transmission of an *ex parte* email  
26 communication to the undersigned’s courtroom deputy on January 31, 2025, in which counsel sought  
27 guidance concerning submission of the required joint scheduling report in advance of the scheduling  
28 conference. Counsel’s neglect in filing a summons returned executed or other filing seeking any  
extension of time to effect service of process on Defendant or otherwise explain the delay is a substantive  
case matter not suitable for informal, *ex parte* communication with the Court.

1 Any failure by Plaintiff to timely respond to this order to show cause will result in  
2 the imposition of sanctions, up to and including a recommendation to dismiss this action.

3 IT IS SO ORDERED.

4 Dated: February 3, 2025

  
UNITED STATES MAGISTRATE JUDGE